

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Carol Nieters, Arthur Squires, Gregory
Caucutt, and Susan Kinter,

Complainants,

vs.

Minnesota Realtors Political Action
Committee,

Respondent.

NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION
AND
NOTICE OF AND ORDER FOR
PROBABLE CAUSE HEARING

TO: Alan Weinblatt, Attorney at Law, Weinblatt & Gaylord, PLC, 111 East Kellogg Blvd, Suite 300, St. Paul, MN 55101; and Chris Galler, Treasurer, Minnesota Realtors Political Action Committee, 5750 Lincoln Drive, Edina, MN 55436.

On November 6, 2006, Complainants filed a Complaint with the Office of Administrative Hearings alleging that the Minnesota Realtors Political Action Committee violated Minn. Stat. § 211B.06 by intentionally preparing and disseminating false campaign material. After reviewing the Complaint and attached documents, the undersigned Administrative Law Judge has determined that the complaint sets forth a prima facie violation of § 211B.06.

THEREFORE, IT IS ORDERED AND NOTICE IS GIVEN that this matter is scheduled for a probable cause hearing to be held by telephone before the undersigned Administrative Law Judge at **11:30 a.m. on Monday, November 13, 2006**. The hearing will be held by call-in telephone conference. You must call: **1-888-677-3757** at that time. Follow the directions and enter the numeric pass code **"17630"** when asked for the meeting number. The probable cause hearing will be conducted pursuant to Minn. Stat. § 211B.34. Information about the probable cause proceedings and copies of state statutes may be found online at www.oah.state.mn.us and www.revisor.leg.state.mn.us.

At the probable cause hearing all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should provide to the Administrative Law Judge all evidence bearing on the case, with copies to the opposing party, before the telephone conference takes place. Documents may be faxed to Judge Neilson at 612-349-2665.

At the conclusion of the probable cause hearing, the Administrative Law Judge will either: (1) dismiss the complaint based on a determination that the complaint is frivolous, or that there is no probable cause to believe that the violation of law alleged in the complaint has occurred; or (2) determine that there is probable cause to believe that the violation of law alleged in the complaint has occurred and refer the case to the Chief Administrative Law Judge for the scheduling of an evidentiary hearing. Evidentiary hearings are conducted pursuant to Minn. Stat. § 211B.35. If the Administrative Law Judge dismisses the complaint, the complainant has the right to seek reconsideration of the decision on the record by the Chief Administrative Law Judge pursuant to Minn. Stat. § 211B.34, subd. 3.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401, or call 612/341-7610 (voice) or 612/341-7346 (TTY).

Dated: November 8, 2006

/s/ Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

MEMORANDUM

The Respondent is a political action committee that prepared and paid for newspaper advertisements in support of certain candidates running for Minnesota House District seats in the November 7, 2006, General Election. The Complaint alleges that the Respondent falsely stated in these campaign advertisements that the candidates it supported are currently the state representatives. Specifically, the Respondent ran advertisements on behalf of Carla Nelson, a candidate for House District 30A, Bill Kuisle, a candidate for House District 30B, Rich Decker, a candidate for House District 29B, and Nathan Stang, a candidate for House District 14B. None of the four candidates are the incumbent. Yet, in each advertisement the Respondent stated: "We strongly encourage you to vote for Representative [candidate's name]."¹ The Complainants assert that the current representative for each district is easily determinable, and allege that the Respondent violated Section 211B.06 by

¹ Complaint Exs. 1-4.

knowingly making false statements of fact regarding the political character or acts of the candidates by stating falsely that the candidate is a "Representative."

Minn. Stat. § 211B.06, subd. 1, prohibits intentional participation:

... [i]n the preparation, dissemination, or broadcast of paid political advertising or campaign material with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat a candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

The Administrative Law Judge finds that the Complainants have made a prima facie showing that Respondent violated the prohibition against false campaign material found at Minn. Stat. § 211B.06. This matter will proceed to a probable cause hearing.

B.L.N.